

AMENDED IN SENATE SEPTEMBER 4, 2013

AMENDED IN SENATE JUNE 18, 2013

AMENDED IN ASSEMBLY MAY 24, 2013

AMENDED IN ASSEMBLY APRIL 22, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 881

Introduced by Assembly Member Chesbro
(Principal coauthor: Assembly Member Stone)
(Coauthors: Assembly Members Williams and Yamada)
(Coauthor: Senator Leno)

February 22, 2013

An act to amend, repeal, and add ~~Sections~~ *Section* 8670.40 ~~and 8670.41~~ of, and to add *and repeal* Section 8670.43 ~~to of~~, the Government Code, relating to oil spills.

LEGISLATIVE COUNSEL'S DIGEST

AB 881, as amended, Chesbro. Oil spill prevention and administrative fee.

Existing law imposes an oil spill prevention and administration fee in an amount determined by the administrator to implement oil spill prevention activities, but not to exceed, until January 1, 2015, \$0.065 per barrel of crude oil or petroleum products, on persons owning crude oil or petroleum products at a marine terminal and thereafter the fee is not to exceed \$0.05 per barrel. The fee is deposited into the Oil Spill Prevention and Administration Fund in the State Treasury. Upon appropriation by the Legislature, moneys in the fund are available for specified purposes, including to cover the costs incurred by the Oiled

Wildlife Care Network for training and field collection and search and rescue activities.

This bill would, instead, on and after January 1, 2015, increase the maximum annual assessment to \$0.07 per barrel of crude oil or petroleum products. *The bill would also allow the assessment to cover the annual costs incurred by the Oiled Wildlife Care Network on and after January 1, 2015, and until January 1, 2016. The bill would, on and after January 1, 2016, continue the assessment of \$0.07 per barrel of crude oil to cover the costs authorized under existing law.*

~~Existing law permits the administrator to charge a nontank vessel owner or operator a reasonable fee, to be collected with each application to obtain a certificate of financial responsibility, in an amount that is based upon the administrator's costs in implementing oil spill prevention relating to nontank vessels.~~

~~This bill would, on and after January 1, 2015, require the fee not to exceed \$3,500 per nontank vessel but would give the administrator discretion to reduce the fee for nontank vessels that pose a reduced risk of pollution.~~

This bill would, *until January 1, 2016*, allow the administrator to transfer up to \$2,000,000 in funds from the Oil Spill Prevention and Administration Fund to the Oil Spill Response Trust Fund, as described, to fund specified activities of the Oiled Wildlife Care Network.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 8670.40 of the Government Code is
- 2 amended to read:
- 3 8670.40. (a) The State Board of Equalization shall collect a
- 4 fee in an amount determined by the administrator to be sufficient
- 5 to carry out the purposes set forth in subdivision (e), and a
- 6 reasonable reserve for contingencies. The annual assessment shall
- 7 not exceed six and one-half cents (\$0.065) per barrel of crude oil
- 8 or petroleum products.
- 9 (b) (1) The oil spill prevention and administration fee shall be
- 10 imposed upon a person owning crude oil at the time that crude oil
- 11 is received at a marine terminal from within or outside the state,
- 12 and upon a person who owns petroleum products at the time that
- 13 those petroleum products are received at a marine terminal from

1 outside this state. The fee shall be collected by the marine terminal
2 operator from the owner of the crude oil or petroleum products
3 based on each barrel of crude oil or petroleum products so received
4 by means of a vessel operating in, through, or across the marine
5 waters of the state. In addition, an operator of a pipeline shall pay
6 the oil spill prevention and administration fee for each barrel of
7 crude oil originating from a production facility in marine waters
8 and transported in the state by means of a pipeline operating across,
9 under, or through the marine waters of the state. The fees shall be
10 remitted to the board by the terminal or pipeline operator on the
11 25th day of the month based upon the number of barrels of crude
12 oil or petroleum products received at a marine terminal or
13 transported by pipeline during the preceding month. A fee shall
14 not be imposed pursuant to this section with respect to crude oil
15 or petroleum products if the person who would be liable for that
16 fee, or responsible for its collection, establishes that the fee has
17 been collected by a terminal operator registered under this chapter
18 or paid to the board with respect to the crude oil or petroleum
19 product.

20 (2) An owner of crude oil or petroleum products is liable for
21 the fee until it has been paid to the board, except that payment to
22 a marine terminal operator registered under this chapter is sufficient
23 to relieve the owner from further liability for the fee.

24 (3) On or before January 20, the administrator shall annually
25 prepare a plan that projects revenues and expenses over three fiscal
26 years, including the current year. Based on the plan, the
27 administrator shall set the fee so that projected revenues, including
28 any interest, are equivalent to expenses as reflected in the current
29 Budget Act and in the proposed budget submitted by the Governor.
30 In setting the fee, the administrator may allow for a surplus if the
31 administrator finds that revenues will be exhausted during the
32 period covered by the plan or that the surplus is necessary to cover
33 possible contingencies. The administrator shall notify the board
34 of the adjusted fee rate, which shall be rounded to no more than
35 four decimal places, to be effective the first day of the month
36 beginning not less than 30 days from the date of the notification.

37 (c) The moneys collected pursuant to subdivision (a) shall be
38 deposited into the fund.

39 (d) The board shall collect the fee and adopt regulations for
40 implementing the fee collection program.

(e) The fee described in this section shall be collected solely for all of the following purposes:

(1) To implement oil spill prevention programs through rules, regulations, leasing policies, guidelines, and inspections and to implement research into prevention and control technology.

(2) To carry out studies that may lead to improved oil spill prevention and response.

(3) To finance environmental and economic studies relating to the effects of oil spills.

(4) To implement, install, and maintain emergency programs, equipment, and facilities to respond to, contain, and clean up oil spills and to ensure that those operations will be carried out as intended.

(5) To respond to an imminent threat of a spill in accordance with the provisions of Section 8670.62 pertaining to threatened discharges. The cumulative amount of an expenditure for this purpose shall not exceed the amount of one hundred thousand dollars (\$100,000) in a fiscal year unless the administrator receives the approval of the Director of Finance and notification is given to the Joint Legislative Budget Committee. Commencing with the 1993–94 fiscal year, and each fiscal year thereafter, it is the intent of the Legislature that the annual Budget Act contain an appropriation of one hundred thousand dollars (\$100,000) from the fund for the purpose of allowing the administrator to respond to threatened oil spills.

(6) To reimburse the board for costs incurred to implement this chapter and to carry out Part 24 (commencing with Section 46001) of Division 2 of the Revenue and Taxation Code.

(7) To cover costs incurred by the Oiled Wildlife Care Network established by Section 8670.37.5 for training and field collection, and search and rescue activities, pursuant to subdivision (g) of Section 8670.37.5.

(f) The moneys deposited in the fund shall not be used for responding to an oil spill.

(g) The moneys deposited in the fund shall not be used to provide a loan to any other fund.

(h) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

1 SEC. 2. Section 8670.40 is added to the Government Code, to
2 read:

3 8670.40. (a) The State Board of Equalization shall collect a
4 fee in an amount determined by the administrator to be sufficient
5 to carry out the purposes set forth in subdivision (e), and a
6 reasonable reserve for contingencies. The annual assessment shall
7 not exceed seven cents (\$0.07) per barrel of crude oil or petroleum
8 products.

9 (b) (1) The oil spill prevention and administration fee shall be
10 imposed upon a person owning crude oil at the time that crude oil
11 is received at a marine terminal from within or outside the state,
12 and upon a person who owns petroleum products at the time that
13 those petroleum products are received at a marine terminal from
14 outside this state. The fee shall be collected by the marine terminal
15 operator from the owner of the crude oil or petroleum products
16 based on each barrel of crude oil or petroleum products so received
17 by means of a vessel operating in, through, or across the marine
18 waters of the state. In addition, an operator of a pipeline shall pay
19 the oil spill prevention and administration fee for each barrel of
20 crude oil originating from a production facility in marine waters
21 and transported in the state by means of a pipeline operating across,
22 under, or through the marine waters of the state. The fees shall be
23 remitted to the board by the terminal or pipeline operator on the
24 25th day of the month based upon the number of barrels of crude
25 oil or petroleum products received at a marine terminal or
26 transported by pipeline during the preceding month. A fee shall
27 not be imposed pursuant to this section with respect to crude oil
28 or petroleum products if the person who would be liable for that
29 fee, or responsible for its collection, establishes that the fee has
30 been collected by a terminal operator registered under this chapter
31 or paid to the board with respect to the crude oil or petroleum
32 product.

33 (2) An owner of crude oil or petroleum products is liable for
34 the fee until it has been paid to the board, except that payment to
35 a marine terminal operator registered under this chapter is sufficient
36 to relieve the owner from further liability for the fee.

37 (3) On or before January 20, the administrator shall annually
38 prepare a plan that projects revenues and expenses over three fiscal
39 years, including the current year. Based on the plan, the
40 administrator shall set the fee so that projected revenues, including

1 any interest, are equivalent to expenses as reflected in the current
2 Budget Act and in the proposed budget submitted by the Governor.
3 In setting the fee, the administrator may allow for a surplus if the
4 administrator finds that revenues will be exhausted during the
5 period covered by the plan or that the surplus is necessary to cover
6 possible contingencies. The administrator shall notify the board
7 of the adjusted fee rate, which shall be rounded to no more than
8 four decimal places, to be effective the first day of the month
9 beginning not less than 30 days from the date of the notification.

10 (c) The moneys collected pursuant to subdivision (a) shall be
11 deposited into the fund.

12 (d) The board shall collect the fee and adopt regulations for
13 implementing the fee collection program.

14 (e) The fee described in this section shall be collected solely
15 for all of the following purposes:

16 (1) To implement oil spill prevention programs through rules,
17 regulations, leasing policies, guidelines, and inspections and to
18 implement research into prevention and control technology.

19 (2) To carry out studies that may lead to improved oil spill
20 prevention and response.

21 (3) To finance environmental and economic studies relating to
22 the effects of oil spills.

23 (4) To implement, install, and maintain emergency programs,
24 equipment, and facilities to respond to, contain, and clean up oil
25 spills and to ensure that those operations will be carried out as
26 intended.

27 (5) To respond to an imminent threat of a spill in accordance
28 with the provisions of Section 8670.62 pertaining to threatened
29 discharges. The cumulative amount of an expenditure for this
30 purpose shall not exceed the amount of one hundred thousand
31 dollars (\$100,000) in a fiscal year unless the administrator receives
32 the approval of the Director of Finance and notification is given
33 to the Joint Legislative Budget Committee. Commencing with the
34 1993–94 fiscal year, and each fiscal year thereafter, it is the intent
35 of the Legislature that the annual Budget Act contain an
36 appropriation of one hundred thousand dollars (\$100,000) from
37 the fund for the purpose of allowing the administrator to respond
38 to threatened oil spills.

1 (6) To reimburse the board for costs incurred to implement this
2 chapter and to carry out Part 24 (commencing with Section 46001)
3 of Division 2 of the Revenue and Taxation Code.

4 (7) To cover annual costs incurred by the Oiled Wildlife Care
5 Network established by Section 8670.37.5, including costs for
6 training and field collection, and search and rescue activities,
7 pursuant to subdivision (g) of Section 8670.37.5.

8 (f) The moneys deposited in the fund shall not be used for
9 responding to an oil spill.

10 (g) The moneys deposited in the fund shall not be used to
11 provide a loan to any other fund.

12 (h) This section shall become operative on January 1, 2015, and
13 shall remain in effect only until January 1, 2016, and as of that
14 date is repealed, unless a later enacted statute, that is enacted
15 before January 1, 2016, deletes or extends that date.

16 SEC. 3. Section 8670.40 is added to the Government Code, to
17 read:

18 8670.40. (a) The State Board of Equalization shall collect a
19 fee in an amount determined by the administrator to be sufficient
20 to carry out the purposes set forth in subdivision (e), and a
21 reasonable reserve for contingencies. The annual assessment shall
22 not exceed seven cents (\$0.07) per barrel of crude oil or petroleum
23 products.

24 (b) (1) The oil spill prevention and administration fee shall be
25 imposed upon a person owning crude oil at the time that crude oil
26 is received at a marine terminal from within or outside the state,
27 and upon a person who owns petroleum products at the time that
28 those petroleum products are received at a marine terminal from
29 outside this state. The fee shall be collected by the marine terminal
30 operator from the owner of the crude oil or petroleum products
31 based on each barrel of crude oil or petroleum products so
32 received by means of a vessel operating in, through, or across the
33 marine waters of the state. In addition, an operator of a pipeline
34 shall pay the oil spill prevention and administration fee for each
35 barrel of crude oil originating from a production facility in marine
36 waters and transported in the state by means of a pipeline
37 operating across, under, or through the marine waters of the state.
38 The fees shall be remitted to the board by the terminal or pipeline
39 operator on the 25th day of the month based upon the number of
40 barrels of crude oil or petroleum products received at a marine

1 terminal or transported by pipeline during the preceding month.
2 A fee shall not be imposed pursuant to this section with respect to
3 crude oil or petroleum products if the person who would be liable
4 for that fee, or responsible for its collection, establishes that the
5 fee has been collected by a terminal operator registered under this
6 chapter or paid to the board with respect to the crude oil or
7 petroleum product.

8 (2) An owner of crude oil or petroleum products is liable for
9 the fee until it has been paid to the board, except that payment to
10 a marine terminal operator registered under this chapter is
11 sufficient to relieve the owner from further liability for the fee.

12 (3) On or before January 20, the administrator shall annually
13 prepare a plan that projects revenues and expenses over three
14 fiscal years, including the current year. Based on the plan, the
15 administrator shall set the fee so that projected revenues, including
16 any interest, are equivalent to expenses as reflected in the current
17 Budget Act and in the proposed budget submitted by the Governor.
18 In setting the fee, the administrator may allow for a surplus if the
19 administrator finds that revenues will be exhausted during the
20 period covered by the plan or that the surplus is necessary to cover
21 possible contingencies. The administrator shall notify the board
22 of the adjusted fee rate, which shall be rounded to no more than
23 four decimal places, to be effective the first day of the month
24 beginning not less than 30 days from the date of the notification.

25 (c) The moneys collected pursuant to subdivision (a) shall be
26 deposited into the fund.

27 (d) The board shall collect the fee and adopt regulations for
28 implementing the fee collection program.

29 (e) The fee described in this section shall be collected solely for
30 all of the following purposes:

31 (1) To implement oil spill prevention programs through rules,
32 regulations, leasing policies, guidelines, and inspections and to
33 implement research into prevention and control technology.

34 (2) To carry out studies that may lead to improved oil spill
35 prevention and response.

36 (3) To finance environmental and economic studies relating to
37 the effects of oil spills.

38 (4) To implement, install, and maintain emergency programs,
39 equipment, and facilities to respond to, contain, and clean up oil

1 *spills and to ensure that those operations will be carried out as*
2 *intended.*

3 *(5) To respond to an imminent threat of a spill in accordance*
4 *with the provisions of Section 8670.62 pertaining to threatened*
5 *discharges. The cumulative amount of an expenditure for this*
6 *purpose shall not exceed the amount of one hundred thousand*
7 *dollars (\$100,000) in a fiscal year unless the administrator receives*
8 *the approval of the Director of Finance and notification is given*
9 *to the Joint Legislative Budget Committee. Commencing with the*
10 *1993–94 fiscal year, and each fiscal year thereafter, it is the intent*
11 *of the Legislature that the annual Budget Act contain an*
12 *appropriation of one hundred thousand dollars (\$100,000) from*
13 *the fund for the purpose of allowing the administrator to respond*
14 *to threatened oil spills.*

15 *(6) To reimburse the board for costs incurred to implement this*
16 *chapter and to carry out Part 24 (commencing with Section 46001)*
17 *of Division 2 of the Revenue and Taxation Code.*

18 *(7) To cover costs incurred by the Oiled Wildlife Care Network*
19 *established by Section 8670.37.5 for training and field collection,*
20 *and search and rescue activities, pursuant to subdivision (g) of*
21 *Section 8670.37.5.*

22 *(f) The moneys deposited in the fund shall not be used for*
23 *responding to an oil spill.*

24 *(g) The moneys deposited in the fund shall not be used to provide*
25 *a loan to any other fund.*

26 *(h) This section shall become operative on January 1, 2016.*

27 **SEC. 3.** ~~Section 8670.41 of the Government Code is amended~~
28 ~~to read:~~

29 ~~8670.41. (a) The administrator shall charge a nontank vessel~~
30 ~~owner or operator a reasonable fee, to be collected with each~~
31 ~~application to obtain a certificate of financial responsibility, in an~~
32 ~~amount that is based upon the administrator's costs in~~
33 ~~implementing this chapter relating to nontank vessels. Before~~
34 ~~January 1, 2005, the fee shall be two thousand five hundred dollars~~
35 ~~(\$2,500), or less per vessel.~~

36 ~~(b) The administrator may charge a reduced fee under this~~
37 ~~section for nontank vessels determined by the administrator to~~
38 ~~pose a reduced risk of pollution, including, but not limited to,~~
39 ~~vessels used for research or training and vessels that are moored~~
40 ~~permanently or rarely move.~~

~~(e) The administrator shall deposit all revenue derived from the fees imposed under this section in the Oil Spill Prevention and Administration Fund established in the State Treasury under Section 8670.38.~~

~~(d) Revenue derived from the fees imposed under this section may be spent for the purposes listed in subdivision (e) of Section 8670.40, and may not be used for responding to an oil spill.~~

~~(e) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.~~

~~SEC. 4. Section 8670.41 is added to the Government Code, to read:~~

~~8670.41. (a) The administrator shall charge a nontank vessel owner or operator a reasonable fee, to be collected with each application to obtain a certificate of financial responsibility, in an amount not to exceed three thousand five hundred dollars (\$3,500) per nontank vessel for the administrator's costs in implementing this chapter relating to nontank vessels.~~

~~(b) Notwithstanding subdivision (a), the administrator may charge a reduced fee under this section for nontank vessels determined by the administrator to pose a reduced risk of pollution, including, but not limited to, vessels used for research or training and vessels that are moored permanently or rarely move.~~

~~(e) The administrator shall deposit all revenue derived from the fees imposed under this section in the Oil Spill Prevention and Administration Fund established in the State Treasury under Section 8670.38.~~

~~(d) Revenue derived from the fees imposed under this section may be spent for the purposes listed in subdivision (e) of Section 8670.40, and may not be used for responding to an oil spill.~~

~~(e) This section shall become operative on January 1, 2015.~~

~~SEC. 5.~~

~~SEC. 4. Section 8670.43 is added to the Government Code, to read:~~

~~8670.43. (a) To the extent that the interest earned on the Oil Spill Response Trust Fund is insufficient to meet the appropriation in subparagraph (A) of paragraph (2) of subdivision (l) of Section 8670.48, the administrator may transfer up to two million dollars (\$2,000,000) in funds from the Oil Spill Prevention and Administration Fund to the Oil Spill Response Trust Fund to be~~

1 used, upon appropriation by the Legislature, to cover the annual
2 costs of the Oiled Wildlife Care Network described in paragraph
3 (7) of subdivision (e) of Section 8670.40.

4 *(b) This section shall remain in effect only until January 1, 2016,*
5 *and as of that date is repealed, unless a later enacted statute, that*
6 *is enacted before January 1, 2016, deletes or extends that date.*

O